RE: Docket No. FR-6124-P-01

We thank you for the opportunity to comment on The Dept. of Housing and Urban Development's (HUD) Proposed Rulemaking on Section 214 of the Housing and Community Development Act of 1980, as amended.

The administration's rationale to propose Rulemaking on Section 214 of the Housing and Community Development Act of 1980 as amended is as well as the underlying premise of HUD's proposed regulation is flawed and certainly appears to be politically motivated. We do not find the right to decent, safe, sanitary housing to be an appropriate forum to address immigration issues-there is an entirely separate federal agency for this, which is where this issue should remain regardless of the administration's views on immigration.

Please know the initial rulemaking took place with extensive input from stakeholders throughout the early 1990s and was implemented effective June 19, 1995. The major premise of this proposed rulemaking is to closely align the HUD Rule with Section 214. We assert that if the HUD rule was inconsistent with Section 214 Congress or the Courts would have made this clear at some point during the 24 years since implementation of the Rule. The impact of the proposed rule based on the administration's impact analysis potentially exacerbates the homeless crisis because mixed families would lose their housing. According to the impact analysis report, "there are approximately 25,000 mixed households having at least one ineligible member. Among these mixed households, 71 percent are eligible members, of which 73 percent are children (0-17 years old)." As a result of eliminating long term prorating of assistance, there will be a diminution in quantity and quality of housing assistance as well as an upsurge in administrative costs. The current version of Section 214 is workable and equitable to all parties concerned, including the taxpayer. We believe that the proposed regulation is inequitable and will end up costing the taxpayer more money in subsidy dollars.

The administration's premise is supported in large part by a change in interpretation of the terms "eligible for assistance" and "benefitting from federal assistance". The proposed rulemaking shifts the meaning of "eligible for assistance" to the entire family unit instead of the individual. While certain eligibility factors such as income eligibility are correctly applied to the entire family it is impossible to apply eligible citizen or non-citizen status of an individual to the entire family without violating the rights of a citizen or eligible non-citizen. Successively, violating FHEO Notice 95-6 which states, "It is entirely appropriate, indeed important, to emphasize to applicants and participants that declarations of citizenship -- and, for declarations of eligible immigration status, the presentation of documents verifying eligibility -- are made under penalty of perjury. However, it is equally important to assure that eligible persons are not inappropriately intimidated or deterred from seeking assistance and that people are denied assistance only for reasons objectively shown to relate to their eligibility."

The current method of allowing eligible persons to participate in assistance programs to which they are entitled while excluding those who are not eligible based on immigration status has been established for

AHMA-PSW
PO Box 226969
Los Angeles, CA 90022
866-698-2462
www.ahma-psw.org

many years. This also applies to many entitlement programs such as SNAP and TANF in addition to discretionary programs such as housing assistance. The attempt to deny these benefits to U.S. citizens will result in lawsuits. While there is no case law on this specific subject, the Supreme Court's ruling in Plyler v. Doe (1982) struck down a Texas law that was "directed against children, and impose[d] its discriminatory burden on the basis of a legal characteristic over which children can have little control"—namely, the fact of their having been brought illegally into the United States by their parents. While this case relates to public education it is not a stretch to find that the right to adequate housing is equally important.

The proposed rulemaking is additionally reinterpreting the phrase "benefitting from federal assistance". Under the current mixed family structure, the income of household members not contending eligible status results in a higher rent paid, and, thus a lower rental subsidy paid by the government. So, while the ineligible household member may benefit by having a roof over their head, they are not in fact benefitting from any federal assistance, and in fact the benefit to the remain household members is lessened. The proposed rulemaking will result in the use of a great deal of federal and private resources to develop, implement, and vet through the courts to reinterpret a rule that has been working since 1995.

We urge HUD to abandon this rulemaking and put these resources to better use since the impact analysis clearly demonstrates the negative impact the proposed ruling will do for the country at large – destabilization of family units, food insecurity, educational challenges, and mental and health issues.

Instead, we would like to propose that HUD consider rulemaking for legislation that has been duly passed by Congress without implementation by HUD for many years such as the Housing Opportunity Through Modernization Act (HOTMA) of 2016. Or, consider updating many major operational documents such as the VAWA Forms or the Authorization to Release Information and Public Housing Agency Plan which have expired, yet are still required to be used by HUD seemingly in violation of federal law.

Thank you for your consideration.

AHMA-PSW

Anthony Sandoval, President
Kurt Aldinger, Vice President-Legislative and Regulatory Affairs
Jazmin Ceballos, Executive Director

AHMA-PSW
PO Box 226969
Los Angeles, CA 90022
866-698-2462
www.ahma-psw.org